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**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

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This is a "Tunney Act" comment on the proposed Microsoft settlement.

If Microsoft, found guilty of a serious crime, despite their perjured testimony during the trial, is punished by a settlement so light, how can we with a straight face ever give anyone any harsh punishment?

In an age where "three strikes and you're out", and no parole, and mandatory jail time, how can this settlement be justified? They were found guilty by a court. They were found guilty by an appeals court. Their appeal to the Supreme Court was denied. Why back down now? Why, after a reasonable punishment was determined (that Microsoft be split up) is the new, "fixed" version so light?

My specified beef are

- (1) Microsoft may decline to expose any particular API by declaring that it's used for "security". However, this includes most of the profitable third party industries. How can anyone inter operate with, for example, Microsoft's Exchange email server without the necessary technical details?
- (2) The definition of 'Windows' is absurdly narrow. Microsoft currently sells at least five different operating systems (X Box, WebTV, Windows CE, the 'Windows 95' version of windows and the 'Windows NT' version). Most of these are not covered. Microsoft can escape from most penalties by simply making a new operating system. Given that they have created so many operating systems in the last ten years, it's not hard to see them making more.
- (3) Microsoft is not prevented from refusing to sell their OS to the different PC manufacturers. It was well documented at the trial that they have used their OS power to push other products; this is the very nature of anti-competitive behavior that should be stopped.

Thank you for listening,  
Peter Smith